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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/168,919	10/09/1998	UMESH J. AMIN	2455-4263US1	5031

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EXAMINER

STEVENS, ROBERTA A

ART UNIT

PAPER NUMBER

2665

DATE MAILED: 02/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/168,919	AMIN ET AL.
	Examiner Roberta A Stevens	Art Unit 2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 09 October 1998.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-21 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-21 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____

4) Interview Summary (PTO-413) Paper No(s). _____
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-4, 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracy (U.S. 6014089) in view of Werner (U.S. 4943973).

Regarding claim 1, 2 and 14-19, Tracy teaches (column 2-3 and figure 8) a method of Receiving a message on a digital control channel for use in a cellular messaging network, comprising: receiving voice channel assignment signals related to the assignment of voice channels and short messaging signals based on the message from the digital control channel

Tracy does not teach distinguishing between voice and data.

Werner teaches (abstract) distinguishing between voice channel assignment signals and the short messaging signals. It would have been obvious to one of ordinary skill in this art to

adapt to Tracy's system Werner's concept of distinguishing between voice and data signals in order to determine which data will be sent.

Neither Tracy nor Werner teach discarding voice channel assignment signals. However it would have been obvious to one of ordinary skill in this art to adapt to both Tracy and Werner's system discarding the voice signals or any unwanted signals to avoid sending the wrong signal and to make space for more signals that need to be transmitted therefore avoiding congestion in the system.

Regarding claim 3 and 20, as for demultiplexing the digital control channel, it is inherent Werner's system that demultiplexing takes place in order to decipher the voice signals from data signals.

Regarding claims 4 and 21, as for paging a receiver in the cellular messaging network, neither Tracy nor Werner teach paging. However, it would have been obvious to one of ordinary skill in this art to adapt paging to Tracy and Werner's systems as paging is well known in the art.

4. Claims 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burton (U.S. 5572347)

Regarding claims 5, 6 and 9, Burton teaches (claim 1) a retransmitter for use with a digital control channel comprising: means for connecting to a switching controller a receiving a modulated carrier signal from the switching controller; an internal circuit coupled for receiving the modulated carrier signal, comprising; means for demodulating the modulated carrier signal to generate a multiplexed digital signal, means for demultiplexing the multiplexed digital signal to generate narrowband signals and video channels.

Burton does not teach generating voice channel assignment signals and short messaging signals. However it would have been obvious to one of ordinary skill in this art to utilize Burton's system with any type of signal namely voice and short message. Burton does not teach discarding signals, however it would have been obvious to one of ordinary skill in this art to adapt to Burton's system discarding unwanted signals to avoid sending the wrong signal and to make space for more signals that need to be transmitted therefore avoiding congestion in the system.

Regarding claims 7 and 8, it would have been obvious to one of ordinary skill in this art to adapt to Burton's system a buffer for avoiding congestion in the system.

Double Patenting

5. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefore..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

6. Claims 10-13 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-4 of prior U.S. Patent No. 5875187. This is a double patenting rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chennakeshu (U.S. 6046990) and Alperovich (U.S. 6175743 B1) are cited to show the state of the art.
8. Any inquiry concerning the communication or earlier communications from the examiner should be directed to Roberta Stevens whose telephone number is (703) 308-6607. The examiner can normally be reached on Monday through Friday from 7:00 am to 3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor can be reached on (703) 308-6602.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305-3900.

9. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314

For informal draft communications, please label "PROPOSED" or "DRAFT"

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,

Arlington, VA. Sixth Floor (Receptionist).

Robert A. Stevens

Patent Examiner

02-22-02



ALPUS H. HSU
PRIMARY EXAMINER